



25 FEB 2008

22850

OBLON, SPIVAK, McCLELLAND, MAIER & NEUSTADT, P.C.
1940 Duke Street
Alexandria, VA 22314

In re Application of :
TODA, Haruki :
U.S. Application No.: 10/507,475 :
PCT No.: PCT/JP03/00155 :
Int. Filing Date: 10 January 2003 :
Priority Date: 04 April 2004 :
Attorney Docket No.: 89165.0017 :
For: PHASE-CHANGE MEMORY DEVICE :

DECISION

This decision is in response to the papers filed 17 December 2007 which are treated as a petition under 37 CFR 1.181. No fee is required.

BACKGROUND

On 24 April 2006, applicant purportedly filed a response which contained, *inter alia*, an executed declaration.

On 17 October 2007, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) was required. A two-month time limit in which to respond was set with extensions of time available.

On 17 December 2007, applicants filed the instant petition which was accompanied by, *inter alia*, a copy of a declaration purportedly filed 24 April 2006 and a stamped postcard receipt for the 24 April 2006 filing.

DISCUSSION

A review of the subject application shows that the 24 April 2006 declaration purportedly filed in the above-captioned application was not located in the file.

MPEP § 503 lists procedures to ensure receipt of any paper filed in the USPTO. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

In this case, applicant has provided a copy of the date-stamped postcard receipt for documents submitted 24 April 2006. A copy of the declaration purportedly filed 24

April 2006 was also provided. The postcard receipt records that among the papers received in the USPTO included a "Declaration. Affidavit of Oath (1) Page(s))." The postcard receipt is stamped "OIPE APR 24 2006" across its face. The U.S. application number, docket number and name of the applicant are all listed on the postcard receipt.

Accordingly, applicant has provided *prima facie* evidence that the declaration was received by the USPTO on 24 April 2006.

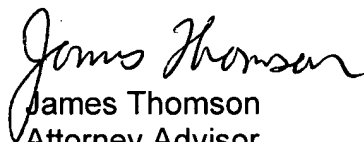
DECISION

For the reasons above, applicant's petition under 37 CFR 1.181 is **GRANTED**.

The declaration originally filed 24 April 2006 is in compliance with 37 CFR 1.497(a) and (b).

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 10 January 2003, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 24 April 2006.

This application is being forwarded to the Office of Patent Application Processing for continued processing.



James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302